

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

NO. 5:09-CV-375-FL

ARKALGUD N.)
LAKSHMINARASIMHA,)
)
Plaintiff,)
)
v.)
)
UNITED STATES (FEDERAL BUREAU)
OF INVESTIGATION); ATTORNEY)
GENERAL; OFFICE OF THE)
PRESIDENCY OF THE UNITED)
STATES,)
)
Defendants.)

This matter is before the court on plaintiff's emergency motion for relief from judgment or order, pursuant to Federal Rule of Civil Procedure 60(b), filed February 12, 2021. (DE 125).¹

This action was dismissed on January 11, 2010, on the basis that the court lacks subject matter jurisdiction under the doctrine of sovereign immunity, and on the basis that plaintiff fails to state a claim upon which relief may be granted. See Lakshminarasimha v. United States (Fed. Bureau of Investigation), No. 5:09-CV-375-FL, 2010 WL 11579874, at *2 (E.D.N.C. Jan. 11, 2010). The United States Court of Appeals for the Fourth Circuit affirmed the court's judgment on June 23, 2010. See Lakshminarasimha v. United States, 384 F. App'x 258, 258 (4th Cir. 2010).

¹ On February 11, 2021, Chief United States District Judge Richard E. Myers II, construed a letter addressed to him from plaintiff as the instant motion for relief from judgment or order pursuant to Federal Rule of Civil Procedure 60(b), and directed the clerk to file the motion in the following seven civil cases in this district, including the instant case, for review and adjudication by the assigned judges: Case Nos. 5:09-CV-375-FL, 5:11-CV-365-BO, 5:11-CV-431-BO, 5:12-CV-29-H, 5:13-MC-54-D, 5:15-CV-259-BR, and 5:20-MC-5-BO.


On October 2, 2015, the court denied a Rule 60(b) motion for relief from judgment filed by plaintiff. (DE 108). On March 26, 2018, and June 26, 2018, the court of appeals dismissed further appeals by plaintiff for failure to prosecute.

Rule 60(b) allows the court to “relieve a party . . . from a final judgment, order or proceeding” on specified grounds. Fed. R. Civ. P. 60(b). To prevail under this rule, a movant must first make a threshold showing demonstrating: (1) timeliness, (2) a meritorious claim or defense, (3) that the opposing party will not suffer unfair prejudice from setting aside the judgment, and (4) that exceptional circumstances warrant the relief. See Wells Fargo Bank, N.A. v. AMH Roman Two NC, LLC, 859 F.3d 295, 299 (4th Cir. 2017).

Upon review and consideration of plaintiff’s motion, the court concludes plaintiff has not made the requisite showing. In particular, plaintiff has not demonstrated that the motion is timely with respect to the issues raised in the instant case. He has not demonstrated a meritorious claim, in light of the court’s grounds for dismissal of the action on January 11, 2010. He has not demonstrated that setting aside the judgement will not result in unfair prejudice to defendants. Finally, he has not demonstrated exceptional circumstances warranting reopening of the case.

Therefore, the instant motion (DE 125) is DENIED.

SO ORDERED, this the 30th day of April, 2021.


LOUISE W. FLANAGAN
United States District Judge